

REMARKS

Responsive to the official Action dated May 7, 2003, the Applicant has amended claims 1, 4, and 5, added claims 10 and 11, and canceled claim 3 of the current application as noted above. The Applicant has amended and added the claims as noted above to further clarify the structure of the apparatus for loading cargo into vehicles as shown in Figs. 1 through 14. Figs. 1-3 clearly show that the guide assembly comprises a longitudinally extending beam that extends generally at right angles to the longitudinal axis of the vehicle bed when mounted to the vehicle. The structure was clearly shown in the drawing figures identified above. The Applicant has amended the specification, specifically page 5, as shown above, to clearly identify this beam.

The Examiner has rejected claims 1-9 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner has particularly noted that the vehicle bed lacks antecedent bases in claim 1 and the term "at least one" should be added to claim 5. The applicant has amended claim 1 to add antecedent basis for the vehicle bed and the term "at least one" to claim 5.

The Applicant has also amended the specification to remove an alternative expression of the term language, namely "strap guide" which was used on pages 2, 6 and 21, which is replaced by the term "connector guide," the term used throughout the rest of the specification and claims for the identical structure.

The Examiner has rejected claims 1-4 under 35 U.S.C. 102 (e) as being anticipated by Monroig, Jr. (U.S. Patent Number 6,413,033), stating that Monroig, Jr. '033 shows a guide assembly 16 mounted proximal to an open end of the vehicle bed 14 and comprising connector guide 26 and support guide 74 attached to a frame, carriage 20 for holding cargo, connector 24, and winch 22. The Applicant has amended claim 1 to claim structure clearly not present in Monroig, Jr. '033, namely the beam 20a and the support guide's 36. Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim. Therefore, the current invention clearly is not anticipated by Monroig, Jr.

In addition, the Examiner has rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Monroig, Jr. '033 stating that Monroig, Jr. shows that the support guides are rails in which rollers of the carriage are guided and that it would've been an obvious design expediency to have utilized rollers as the guides along which rails of the carriage could ride, as this would be a mere reversal of parts. The Applicant respectively traverses the Examiner's conclusion. The rails of Monroig, Jr. are opposing U-shaped channels that capture the wheels of the carriage preventing the carriage from any vertical movement other than that accomplished as the carriage is received by the "articulated support" which is tilted for easy entry of the carriage. The articulated support is then lowered adjacent the truck bed. If Monroig Jr. would have permitted the wheels of the carriage to ride on the outside of the channel as suggested by the

Examiner, the apparatus of Monroig, Jr. would be greatly redesigned. Monroig, Jr. was particularly concerned with the rocking motion that occurred when loading or unloading a craft from a ramp onto a truck bed as discussed in column 1 lines 25 through 29. It is obvious that his design of an articulated support was to avoid the stresses described in this section. Therefore, the use of rollers as a pivot point would not have been an obvious solution. It is unclear how the Examiner would replace the rails with rollers, that is how they would be attached to the articulated support and still work in concert with a stationary support. The test is whether the claimed invention, considered as a whole, would have been obvious. *Jones v. Hardy*, 110 U.S. BQ 1021, 1024 (Fed. Cir. 2984). Therefore, the impact on the design that includes the articulated support and the stationary support must be considered as a whole when considering obviousness. The Examiner's proposed design change would eliminate the need for Monroig's elaborate "stationery support" and "articulated support," completely changing the character and the purpose of the Monroig Jr. invention. The Applicant has used a simplified very different structure, using only a beam with rollers attached thereto to control the carriage travel. Additionally, the carriage would easily slide off the rails without being captured in the U-shaped channels, which would make this structure unsafe and therefore non obvious. Therefore, claims 1-5 of the present invention are patentable over Monroig, Jr.

The Examiner has rejected claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Dixon et al. (U.S. 6,099,232). The Examiner states that the guide assembly 210 as shown in Figs. 9 of Dixon et al. is an obvious design expediency and a mere reversal of parts. The applicant has amended claim 1 to more clearly define the support guide including structure not shown in Dixon et al.. The Examiner states that as in Monroig, Jr. it would have been an obvious design expediency to have utilized rollers as the guides along which rails of the carriage could ride as this would be a mere reversal of parts. The Applicant notes that as in Monroig, Jr. (as discussed above), Dixon et al. also comprises a support apparatus having opposing U-shaped channels that capture the rollers of the carriage. In addition the “support guides” have wheels that ride in a second set of rails that are mounted to the bed of a vehicle. As in the discussion of Monroig, Jr. above the impact on the Dixon et al. design, that includes the ramp (with U-shaped channels) 210, the carriage 212 that is pivotally and slidably connected to the ramp 210 and the stationary frame with rails 214 (to which the ramp is pivotally and slidably attached), must be considered as a whole when considering obviousness. Replacing the support guide (channels) with the rollers of the current invention would cause the invention of Dixon et al. to be inoperable as the structure of the current invention is not a mere reversal of parts. Without being locked into the ramp, the carriage 212 would be unsafe as it would likely slide off the rails when being operated. Therefore, claim 1 includes structure not disclosed in Dixon et al. and the current invention is patentable thereover.

The Examiner has rejected claims 6-7 under 35 U.S.C. 103(a) as being unpatentable over Dixon et al. in view of Goss et al. (U.S. 5,354,164). The Examiner states that it would've been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Dixon et al. with retaining guides having the features of Goss et al. as this would preclude the complexity of interfitted rollers and rails and allow loading and unloading of different size cargo carriers. A combination of Dixon et al. and Goss et al. is not suggested in Dixon et al. as there is no need for the rollers of Goss et al., since they U-shaped rails of Dixon retain the carriage. The Examiner has completely redesigned Dixon et al. by eliminating the opposing U-shaped rails of Dixon et al., substituting the rollers of the current invention and adding the rollers of Goss et al. This is design by hindsight and is impermissible. Therefore, claims 6-7 are patentable over Dixon et al. in view of Goss et al.

The Examiner has rejected claims 6-7 under 35 U.S.C. 103(a) as being unpatentable over Monroig, Jr. in view of Goss et al..The Examiner states that it would've been obvious for one of ordinary skill in the art at the time of the invention to have modified the invention of Monroig, Jr. in view of Goss et al. for the same reasons as Dixon et al. such a combination would preclude the complexity of interfitted rollers and rails and allow loading and unloading of different size cargo carriers. The Examiner has completely redesigned Monroig, Jr. by eliminating the rails of Monroig, Jr., substituting the rollers of the current invention and adding the rollers of Goss et al.

This design by hindsight is impermissible as there is no suggestion In Monroig, Jr. that such a combination should be made. Therefore, claims 6-7 are patentable over Monroig, Jr. in view of Goss et al.

The Examiner has rejected claims 1-4 under 35 U.S.C. 103 (a) as being unpatentable over Pihlgren (U.S. 3,843,002) in view of Monroig, Jr. the Examiner states that Pihlgren shows the invention essentially as claimed including guide assembly 40 with a frame and connector guide's 49, carriage 51, connector 38 and winch 36 and a connector guide 60. The Applicant has amended claim 1 to include structure that is clearly not shown in Pihlgren. The Examiner states that it would've been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Pihlgren adding a connector guide to the guide assembly as shown by Monroig, Jr. Pihlgren does not disclose the structure of the current invention as Pihlgren comprises two longitudinally extending beams that extend along the longitudinal axis of the truck bed. These beams have one end pivotally attached to a vehicle bed and the other ends engaging the axle of the carriage so that the carriage may be rotated upwardly over the bed of the vehicle. Adding the connector guide to the guide assembly does not create structure that discloses the current invention. In addition, adding the connector guide to the assembly 49 is unnecessary as the assembly 49 remains below the cable 38 during the pulling of the carriage onto the ramps 50 so that the assembly 49 may engage the axle 57 of the carriage.

The Examiner has rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over Pihlgren in view of Monroig, Jr. and further in view of Whiting (U.S. 4,630,990). The Examiner has combined Whiting with Philgren to claim that it would've been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Pihlgren by attaching the guide assembly to a trailer hitch instead of a truck bed, as Whiting explicitly teaches this as an alternative equivalent. The applicant respectfully traverses the Examiner's opinion, as there is nothing in Pihlgren that suggests the desirability, and thus the obviousness of making the combination, *Uniroyal v..Rudkin-Wiley*, 5 U. S. P. Q. 2d 1434, 1438 (Fed. Circ. 1988). The apparatus of Pilgrim is much more complex than the apparatus of the current invention, including the requirement to pivot a large load overhead. The support plate 41 of Pihlgren has apertures therethrough to receive bolts bolts 43 through the apertures in the support plate to secure the support plate rigidly to the pickup truck bed 11, as discussed in column three lines 10-21. As further discussed in this section, it is important that the support plate 41 be attached to the truck bed above the truck axle 13 so that all weight applied thereto by the rear rotating hinge assembly 40 can be readily supported by the truck suspension system. Therefore, attachment of the guide assembly to a trailer hitch is contrary to the teachings of the patent to Pihlgren. Therefore, this combination is improper and claim 8 is patentable over the prior art.

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The Examiner has rejected claim 9 under 35 U.S.C. 103(a) as being unpatentable over Pilgrim in view of Monroig , Jr. and Whiting as applied to claim 8 above and further in view of Abbott (U.S. 4,301,953). The Examiner has relied on the combination of Pilgrim in view of Monroig, Jr. and Whiting, as applied to claim 8 above, and further in view of Abbott (U.S. 4,301,953). As discussed above, the combination of Pilgrim, Monroig, Jr. and Whiting is improper, therefore the further addition of a fourth patent, the patent to Abbott is also improper. Therefore, claim 9 is patentable over the prior art.

By virtue of the amended claims and the amended specification, the Applicant submits that claims 1-11 are fully patentable over all of the art of record taken singly or in any combination. Accordingly, it is respectfully submitted that the present application is in condition for allowance and the application should now be passed to issue. If the further prosecution of this application would be enhanced thereby, the Examiner is invited to telephone the undersigned attorney of record at his convenience.

Respectfully submitted,

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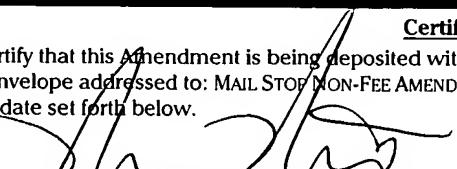
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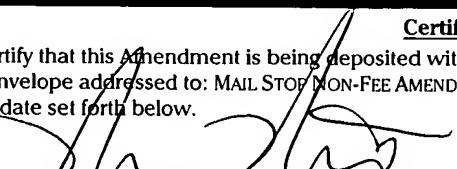
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Nona Norris, Secretary to William S. Van Royen


09/04/2003
Date